

1 A bill to be entitled
2 An act relating to the use of regulated substances;
3 amending s. 210.095, F.S.; deleting the definition of
4 the term "adult"; conforming provisions to changes
5 made by the act; amending s. 381.986, F.S.; providing
6 that it is unlawful for a qualified physician to issue
7 a physician certification for marijuana in a form for
8 smoking to a patient under 21 years of age; requiring
9 the standardized informed consent form to include
10 certain information concerning negative health effects
11 of smoking marijuana on persons under 21 years of age;
12 amending s. 386.212, F.S.; providing that it is
13 unlawful for persons under 21 years of age to smoke
14 tobacco in, on, or within 1,000 feet of the real
15 property comprising a public or private elementary,
16 middle, or secondary school during specified hours;
17 amending s. 569.002, F.S.; revising the definition of
18 the term "any person under the age of 18"; amending s.
19 569.007, F.S.; providing that it is unlawful to sell
20 or deliver tobacco products to persons under 21 years
21 of age; providing an exception; amending s. 569.0075,
22 F.S.; prohibiting certain entities from gifting sample
23 tobacco products to persons under 21 years of age;
24 amending s. 569.008, F.S.; providing legislative
25 intent; conforming provisions to changes made by the

act; amending s. 569.101, F.S.; providing that it is unlawful to sell, deliver, barter, furnish, or give tobacco products to persons under 21 years of age; conforming provisions to changes made by the act; amending s. 569.11, F.S.; prohibiting persons under 21 years of age from possessing tobacco products; providing that it is unlawful for persons under 21 years of age to misrepresent their age or military service to acquire tobacco products; conforming a provision to changes made by the act; amending ss. 569.12, 569.14, and 569.19, F.S.; conforming provisions to changes made by the act; amending s. 877.112, F.S.; prohibiting the sale and possession of nicotine products and nicotine dispensing devices by persons under 21 years of age; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (b) through (j) of subsection (1) of section 210.095, Florida Statutes, are redesignated as paragraphs (a) through (i), respectively, and paragraph (a) of subsection (1), paragraph (c) of subsection (2), paragraph (a) of subsection (3), paragraph (a) of subsection (4), subsection (5), and paragraphs (a), (b), (e), and (g) of subsection (8) are

PCB HHS 19-03

2019

51 amended, to read:

52 210.095 Mail order, Internet, and remote sales of tobacco
53 products; age verification.—

54 (1) For purposes of this section, the term:

55 ~~(a) "Adult" means an individual who is at least of the~~
56 ~~legal minimum purchase age for tobacco products.~~

57 (2)

58 (c) A person may not make a delivery sale of tobacco
59 products to any individual who is not 21 years of age or older
60 ~~an adult.~~

61 (3) A person may not mail, ship, or otherwise deliver
62 tobacco products in connection with an order for a delivery sale
63 unless, before the first delivery to the consumer, the person
64 accepting the order for the delivery sale:

65 (a) Obtains from the individual submitting the order a
66 certification that includes:

67 1. Reliable confirmation that the individual is 21 years
68 of age or older ~~an adult~~; and

69 2. A statement signed by the individual in writing and
70 under penalty of perjury which:

71 a. Certifies the address and date of birth of the
72 individual; and

73 b. Confirms that the individual wants to receive delivery
74 sales from a tobacco company and understands that, under the
75 laws of this state, the following actions are illegal:

76 (I) Signing another individual's name to the
77 certification;

78 (II) Selling tobacco products to individuals under the
79 legal minimum purchase age; and

80 (III) Purchasing tobacco products, if the person making
81 the purchase is under the legal minimum purchase age.

82
83 In addition to the requirements of this subsection, a person
84 accepting an order for a delivery sale may request that a
85 consumer provide an electronic mail address.

86 (4) The notice described in paragraph (3)(c) must include
87 prominent and clearly legible statements that sales of tobacco
88 products are:

89 (a) Illegal if made to individuals who are not 21 years of
90 age or older ~~adults~~.

91
92 The notice must include an explanation of how each tax has been,
93 or is to be, paid with respect to the delivery sale.

94 (5) Each person who mails, ships, or otherwise delivers
95 tobacco products in connection with an order for a delivery sale
96 must:

97 (a) Include as part of the shipping documents, in a clear
98 and conspicuous manner, the following statement: "Tobacco
99 Products: Florida law prohibits shipping to individuals under 21
100 ~~18~~ years of age and requires the payment of all applicable

PCB HHS 19-03

2019

101 taxes."

102 (b) Use a method of mailing, shipping, or delivery which
103 obligates the delivery service to require:

104 1. The individual submitting the order for the delivery
105 sale or another individual who is 21 years of age or older ~~adult~~
106 who resides at the individual's address to sign his or her name
107 to accept delivery of the shipping container. Proof of the legal
108 minimum purchase age of the individual accepting delivery is
109 required only if the individual appears to be under 27 years of
110 age.

111 2. Proof that the individual is either the addressee or
112 the individual who is 21 years of age or older ~~adult~~ designated
113 by the addressee, in the form of a valid, government-issued
114 identification card bearing a photograph of the individual who
115 signs to accept delivery of the shipping container.

116 (c) Provide to the delivery service, if such service is
117 used, evidence of full compliance with subsection (7).

118
119 If the person accepting a purchase order for a delivery sale
120 delivers the tobacco products without using a delivery service,
121 the person must comply with all of the requirements of this
122 section which apply to a delivery service. Any failure to comply
123 with a requirement of this section constitutes a violation
124 thereof.

125 (8) (a) Except as otherwise provided in this section, a

126 violation of this section by a person other than an individual
127 who is not 21 years of age or older ~~an adult~~ is a misdemeanor of
128 the first degree, punishable as provided in s. 775.082 or s.
129 775.083, and:

130 1. For a first violation of this section, the person shall
131 be fined \$1,000 or five times the retail value of the tobacco
132 products involved in the violation, whichever is greater.

133 2. For a second or subsequent violation of this section,
134 the person shall be fined \$5,000 or five times the retail value
135 of the tobacco products involved in the violation, whichever is
136 greater.

137 (b) A person who is 21 years of age or older ~~an adult~~ and
138 knowingly submits a false certification under subsection (3)
139 commits a misdemeanor of the first degree, punishable as
140 provided in s. 775.082 or s. 775.083. For each offense, the
141 person shall be fined \$10,000 or five times the retail value of
142 the tobacco products involved in the violation, whichever is
143 greater.

144 (e) A person who, in connection with a delivery sale,
145 delivers tobacco products on behalf of a delivery service to an
146 individual who is not 21 years of age or older ~~an adult~~ commits
147 a misdemeanor of the third degree, punishable as provided in s.
148 775.082 or s. 775.083.

149 (g) An individual who is not 21 years of age or older ~~an~~
150 ~~adult~~ and who knowingly violates any provision of this section

151 commits a misdemeanor of the third degree, punishable as
152 provided in s. 775.082 or s. 775.083.

153 Section 2. Paragraph (d) of subsection (4) of section
154 381.986, Florida Statutes, as amended by chapter 2019-1, Laws of
155 Florida, is amended to read:

156 381.986 Medical use of marijuana.—

157 (4) PHYSICIAN CERTIFICATION.—

158 (d) A qualified physician may not issue a physician
159 certification for marijuana in a form for smoking to a patient
160 under 21 ~~18~~ years of age unless the patient is diagnosed with a
161 terminal condition, the qualified physician determines that
162 smoking is the most effective route of administration for the
163 patient, and a second physician who is a board-certified
164 pediatrician concurs with such determination. Such determination
165 and concurrence must be documented in the patient's medical
166 record and in the medical marijuana use registry. The certifying
167 physician must obtain the written informed consent of such
168 patient's parent or legal guardian before issuing a physician
169 certification to the patient for marijuana in a form for
170 smoking. The qualified physician must use a standardized
171 informed consent form adopted in rule by the Board of Medicine
172 and the Board of Osteopathic Medicine which must include
173 information concerning the negative health effects of smoking
174 marijuana on persons under 21 ~~18~~ years of age and an
175 acknowledgement that the qualified physician has sufficiently

PCB HHS 19-03

2019

176 explained the contents of the form.

177 Section 3. Subsection (1) of section 386.212, Florida
178 Statutes, is amended to read:

179 386.212 Smoking prohibited near school property; penalty.—

180 (1) It is unlawful for any person under 21 ~~18~~ years of age
181 to smoke tobacco in, on, or within 1,000 feet of the real
182 property comprising a public or private elementary, middle, or
183 secondary school between the hours of 6 a.m. and midnight. This
184 section does not apply to any person occupying a moving vehicle
185 or within a private residence.

186 Section 4. Subsection (7) of section 569.002, Florida
187 Statutes, is amended to read:

188 569.002 Definitions.—As used in this chapter, the term:

189 (7) "Any person under the age of 21 ~~18~~" does not include
190 any person under the age of 21 ~~18~~ who:

191 ~~(a) Has had his or her disability of nonage removed under~~
192 ~~chapter 743;~~

193 (a) ~~(b)~~ Is in the military reserve or on active duty in the
194 Armed Forces of the United States; or

195 ~~(c) Is otherwise emancipated by a court of competent~~
196 ~~jurisdiction and released from parental care and responsibility;~~
197 ~~or~~

198 (b) ~~(d)~~ Is acting in his or her scope of lawful employment
199 with an entity licensed under the provisions of chapter 210 or
200 this chapter.

PCB HHS 19-03

2019

201 Section 5. Subsection (1) and (2) of section 569.007,
202 Florida Statutes, are amended to read:

203 569.007 Sale or delivery of tobacco products;
204 restrictions.—

205 (1) In order to prevent persons under 21 ~~18~~ years of age
206 from purchasing or receiving tobacco products, the sale or
207 delivery of tobacco products is prohibited, except:

208 (a) When under the direct control or line of sight of the
209 dealer or the dealer's agent or employee; or

210 (b) Sales from a vending machine are prohibited under the
211 provisions of paragraph (1)(a) and are only permissible from a
212 machine that is equipped with an operational lockout device
213 which is under the control of the dealer or the dealer's agent
214 or employee who directly regulates the sale of items through the
215 machine by triggering the lockout device to allow the dispensing
216 of one tobacco product. The lockout device must include a
217 mechanism to prevent the machine from functioning if the power
218 source for the lockout device fails or if the lockout device is
219 disabled, and a mechanism to ensure that only one tobacco
220 product is dispensed at a time.

221 (2) The provisions of subsection (1) shall not apply to an
222 establishment that prohibits persons under 21 ~~18~~ years of age on
223 the licensed premises.

224 Section 6. Section 569.0075, Florida Statutes, is amended
225 to read:

PCB HHS 19-03

2019

569.0075 Gift of sample tobacco products prohibited.—The gift of sample tobacco products to any person under the age of 21 ~~18~~ by an entity licensed or permitted under the provisions of chapter 210 or this chapter, or by an employee of such entity, is prohibited and is punishable as provided in s. 569.101.

Section 7. Subsections (1) through (3) of section 569.008, Florida Statutes, are amended to read:

569.008 Responsible retail tobacco products dealers; qualifications; mitigation of disciplinary penalties; diligent management and supervision; presumption.—

(1) The Legislature intends to prevent the sale of tobacco products to persons under 21 ~~18~~ years of age and to encourage retail tobacco products dealers to comply with responsible practices in accordance with this section.

(2) To qualify as a responsible retail tobacco products dealer, the dealer must establish and implement procedures designed to ensure that the dealer's employees comply with the provisions of this chapter. The dealer must provide a training program for the dealer's employees which addresses the use and sale of tobacco products and which includes at least the following topics:

(a) Laws covering the sale of tobacco products.

(b) Methods of recognizing and handling customers under 21 ~~18~~ years of age.

(c) Procedures for proper examination of identification

PCB HHS 19-03

2019

cards in order to verify that customers are not under 21 ~~18~~ years of age.

(d) The use of the age audit identification function on electronic point-of-sale equipment, where available.

(3) In determining penalties under s. 569.006, the division may mitigate penalties imposed against a dealer because of an employee's illegal sale of a tobacco product to a person under 21 ~~18~~ years of age if the following conditions are met:

(a) The dealer is qualified as a responsible dealer under this section.

(b) The dealer provided the training program required under subsection (2) to that employee before the illegal sale occurred.

(c) The dealer had no knowledge of that employee's violation at the time of the violation and did not direct, approve, or participate in the violation.

(d) If the sale was made through a vending machine, the machine was equipped with an operational lock-out device.

Section 8. Subsections (1) and (3) of section 569.101, Florida Statutes, are amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products to persons under 21 ~~18~~ years of age; criminal penalties; defense.—

(1) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, to any person who is under 21 ~~18~~

PCB HHS 19-03

2019

276 years of age, any tobacco product.

277 (3) A person charged with a violation of subsection (1)
278 has a complete defense if, at the time the tobacco product was
279 sold, delivered, bartered, furnished, or given:

280 (a) The buyer or recipient falsely evidenced that she or
281 he was 21 ~~18~~ years of age or older;

282 (b) The appearance of the buyer or recipient was such that
283 a prudent person would believe the buyer or recipient to be 21
284 ~~18~~ years of age or older; and

285 (c) Such person carefully checked a driver license or an
286 identification card issued by this state or another state of the
287 United States, a passport, or a United States armed services
288 identification card presented by the buyer or recipient and
289 acted in good faith and in reliance upon the representation and
290 appearance of the buyer or recipient in the belief that the
291 buyer or recipient was 21 ~~18~~ years of age or older.

292 Section 9. Section 569.11, Florida Statutes, is amended to
293 read:

294 569.11 Possession, Misrepresenting age or military service
295 to purchase, and purchase of tobacco products by persons under
296 21 ~~18~~ years of age prohibited; penalties; jurisdiction;
297 disposition of fines.—

298 (1) It is unlawful for any person under 21 ~~18~~ years of age
299 to knowingly possess any tobacco product. Any person under 21 ~~18~~
300 years of age who violates the provisions of this subsection

PCB HHS 19-03

2019

commits a noncriminal violation as provided in s. 775.08(3),
punishable by:

(a) For a first violation, 16 hours of community service
or, instead of community service, a \$25 fine. In addition, the
person must attend a school-approved anti-tobacco program, if
locally available;

(b) For a second violation within 12 weeks of the first
violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of
the first violation, the court must direct the Department of
Highway Safety and Motor Vehicles to withhold issuance of or
suspend or revoke the person's driver license or driving
privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time
period after the first violation is punishable as provided for a
first violation.

(2) It is unlawful for any person under 21 ~~18~~ years of age
to misrepresent his or her age or military service for the
purpose of inducing a dealer or an agent or employee of the
dealer to sell, give, barter, furnish, or deliver any tobacco
product, or to purchase, or attempt to purchase, any tobacco
product from a person or a vending machine. Any person under 21
~~18~~ years of age who violates a provision of this subsection
commits a noncriminal violation as provided in s. 775.08(3),

326 | punishable by:

327 | (a) For a first violation, 16 hours of community service
328 | or, instead of community service, a \$25 fine and, in addition,
329 | the person must attend a school-approved anti-tobacco program,
330 | if available;

331 | (b) For a second violation within 12 weeks of the first
332 | violation, a \$25 fine; or

333 | (c) For a third or subsequent violation within 12 weeks of
334 | the first violation, the court must direct the Department of
335 | Highway Safety and Motor Vehicles to withhold issuance of or
336 | suspend or revoke the person's driver license or driving
337 | privilege, as provided in s. 322.056.

338 |
339 | Any second or subsequent violation not within the 12-week time
340 | period after the first violation is punishable as provided for a
341 | first violation.

342 | (3) Any person under 21 ~~18~~ years of age cited for
343 | committing a noncriminal violation under this section must sign
344 | and accept a civil citation indicating a promise to appear
345 | before the county court or comply with the requirement for
346 | paying the fine and must attend a school-approved anti-tobacco
347 | program, if locally available. If a fine is assessed for a
348 | violation of this section, the fine must be paid within 30 days
349 | after the date of the citation or, if a court appearance is
350 | mandatory, within 30 days after the date of the hearing.

351 (4) A person charged with a noncriminal violation under
352 this section must appear before the county court or comply with
353 the requirement for paying the fine. The court, after a hearing,
354 shall make a determination as to whether the noncriminal
355 violation was committed. If the court finds the violation was
356 committed, it shall impose an appropriate penalty as specified
357 in subsection (1) or subsection (2). A person who participates
358 in community service shall be considered an employee of the
359 state for the purpose of chapter 440, for the duration of such
360 service.

361 (5)(a) If a person under 21 ~~18~~ years of age is found by
362 the court to have committed a noncriminal violation under this
363 section and that person has failed to complete community
364 service, pay the fine as required by paragraph (1)(a) or
365 paragraph (2)(a), or attend a school-approved anti-tobacco
366 program, if locally available, the court must direct the
367 Department of Highway Safety and Motor Vehicles to withhold
368 issuance of or suspend the driver license or driving privilege
369 of that person for a period of 30 consecutive days.

370 (b) If a person under 21 ~~18~~ years of age is found by the
371 court to have committed a noncriminal violation under this
372 section and that person has failed to pay the applicable fine as
373 required by paragraph (1)(b) or paragraph (2)(b), the court must
374 direct the Department of Highway Safety and Motor Vehicles to
375 withhold issuance of or suspend the driver license or driving

376 privilege of that person for a period of 45 consecutive days.

377 (6) Eighty percent of all civil penalties received by a
378 county court pursuant to this section shall be remitted by the
379 clerk of the court to the Department of Revenue for transfer to
380 the Department of Education to provide for teacher training and
381 for research and evaluation to reduce and prevent the use of
382 tobacco products by children. The remaining 20 percent of civil
383 penalties received by a county court pursuant to this section
384 shall remain with the clerk of the county court to cover
385 administrative costs.

386 Section 10. Paragraph (b) of subsection (2) and subsection
387 (3) of section 569.12, Florida Statutes, are amended to read:

388 569.12 Jurisdiction; tobacco product enforcement officers
389 or agents; enforcement.—

390 (2)

391 (b) A tobacco product enforcement officer is authorized to
392 issue a citation to a person under the age of 21 ~~18~~ when, based
393 upon personal investigation, the officer has reasonable cause to
394 believe that the person has committed a civil infraction in
395 violation of s. 386.212 or s. 569.11.

396 (3) A correctional probation officer as defined in s.
397 943.10(3) is authorized to issue a citation to a person under
398 the age of 21 ~~18~~ when, based upon personal investigation, the
399 officer has reasonable cause to believe that the person has
400 committed a civil infraction in violation of s. 569.11.

Section 11. Subsections (1) and (2) of section 569.14, Florida Statutes, are amended to read:

569.14 Posting of a sign stating that the sale of tobacco products to persons under the age of 21 ~~18 years of age~~ is unlawful; enforcement; penalty.—

(1) A dealer that sells tobacco products shall post a clear and conspicuous sign in each place of business where such products are sold which substantially states the following:

THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) A dealer that sells tobacco products and nicotine products or nicotine dispensing devices, as defined in s. 877.112, may use a sign that substantially states the following:

THE SALE OF TOBACCO PRODUCTS, NICOTINE PRODUCTS, OR NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

A dealer that uses a sign as described in this subsection meets the signage requirements of subsection (1) and s. 877.112.

Section 12. Subsections (3) and (4) of section 569.19, Florida Statutes, are amended to read:

569.19 Annual report.—The division shall report annually

PCB HHS 19-03

2019

426 with written findings to the Legislature and the Governor by
427 December 31, on the progress of implementing the enforcement
428 provisions of this chapter. This must include, but is not
429 limited to:

430 (3) The number of violations for selling tobacco products
431 to persons under the age of 21 ~~18~~, and the results of
432 administrative hearings on the above and related issues.

433 (4) The number of persons under the age of 21 ~~18~~ cited for
434 violations of s. 569.11 and sanctions imposed as a result of
435 citation.

436 Section 13. Subsections (2), (3), (5), (6), (7), and (8),
437 paragraph (a) of subsection (10), paragraph (c) of subsection
438 (11), and paragraphs (a) and (b) of subsection (12) of section
439 877.112, Florida Statutes, are amended to read:

440 877.112 Nicotine products and nicotine dispensing devices;
441 prohibitions for persons under 21 years of age ~~minors~~;
442 penalties; civil fines; signage requirements; preemption.—

443 (2) PROHIBITIONS ON SALE TO PERSONS UNDER 21 YEARS OF AGE
444 ~~MINORS~~.—It is unlawful to sell, deliver, barter, furnish, or
445 give, directly or indirectly, to any person who is under 21 ~~18~~
446 years of age, any nicotine product or a nicotine dispensing
447 device.

448 (3) PROHIBITIONS ON GIFTING SAMPLES TO PERSONS UNDER 21
449 YEARS OF AGE ~~MINORS~~.—The gift of a sample nicotine product or
450 nicotine dispensing device to any person under the age of 21 ~~18~~

PCB HHS 19-03

2019

by a retailer of nicotine products or nicotine dispensing devices, or by an employee of such retailer, is prohibited.

(5) AFFIRMATIVE DEFENSES.—A person charged with a violation of subsection (2) or subsection (3) has a complete defense if, at the time the nicotine product or nicotine dispensing device was sold, delivered, bartered, furnished, or given:

(a) The buyer or recipient falsely evidenced that she or he was 21 ~~18~~ years of age or older;

(b) The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 21 ~~18~~ years of age or older; and

(c) Such person carefully checked a driver license or an identification card issued by this state or another state of the United States, a passport, or a United States Armed Services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 21 ~~18~~ years of age or older.

(6) PROHIBITIONS ON POSSESSION OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES BY PERSONS UNDER 21 YEARS OF AGE ~~MINORS~~.—It is unlawful for any person under 21 ~~18~~ years of age to knowingly possess any nicotine product or a nicotine dispensing device. Any person under 21 ~~18~~ years of age who violates this subsection commits a noncriminal violation as

defined in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine. In addition, the person must attend a school-approved anti-tobacco and nicotine program, if locally available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

(7) PROHIBITION ON MISREPRESENTING AGE.—It is unlawful for any person under 21 ~~18~~ years of age to misrepresent his or her age or military service for the purpose of inducing a retailer of nicotine products or nicotine dispensing devices or an agent or employee of such retailer to sell, give, barter, furnish, or deliver any nicotine product or nicotine dispensing device, or to purchase, or attempt to purchase, any nicotine product or nicotine dispensing device from a person or a vending machine. Any person under 21 ~~18~~ years of age who violates this subsection

PCB HHS 19-03

2019

commits a noncriminal violation as defined in s. 775.08(3),
punishable by:

(a) For a first violation, 16 hours of community service
or, instead of community service, a \$25 fine and, in addition,
the person must attend a school-approved anti-tobacco and
nicotine program, if available;

(b) For a second violation within 12 weeks of the first
violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of
the first violation, the court must direct the Department of
Highway Safety and Motor Vehicles to withhold issuance of or
suspend or revoke the person's driver license or driving
privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time
period after the first violation is punishable as provided for a
first violation.

(8) PENALTIES FOR PERSONS UNDER 21 YEARS OF AGE ~~MINORS~~.—

(a) A person under 21 ~~18~~ years of age cited for committing
a noncriminal violation under this section must sign and accept
a civil citation indicating a promise to appear before the
county court or comply with the requirement for paying the fine
and must attend a school-approved anti-tobacco and nicotine
program, if locally available. If a fine is assessed for a
violation of this section, the fine must be paid within 30 days

526 after the date of the citation or, if a court appearance is
527 mandatory, within 30 days after the date of the hearing.

528 (b) A person charged with a noncriminal violation under
529 this section must appear before the county court or comply with
530 the requirement for paying the fine. The court, after a hearing,
531 shall make a determination as to whether the noncriminal
532 violation was committed. If the court finds the violation was
533 committed, it shall impose an appropriate penalty as specified
534 in subsection (6) or subsection (7). A person who participates
535 in community service shall be considered an employee of the
536 state for the purpose of chapter 440, for the duration of such
537 service.

538 (c) If a person under 21 ~~18~~ years of age is found by the
539 court to have committed a noncriminal violation under this
540 section and that person has failed to complete community
541 service, pay the fine as required by paragraph (6) (a) or
542 paragraph (7) (a), or attend a school-approved anti-tobacco and
543 nicotine program, if locally available, the court must direct
544 the Department of Highway Safety and Motor Vehicles to withhold
545 issuance of or suspend the driver license or driving privilege
546 of that person for 30 consecutive days.

547 (d) If a person under 21 ~~18~~ years of age is found by the
548 court to have committed a noncriminal violation under this
549 section and that person has failed to pay the applicable fine as
550 required by paragraph (6) (b) or paragraph (7) (b), the court must

PCB HHS 19-03

2019

551 direct the Department of Highway Safety and Motor Vehicles to
552 withhold issuance of or suspend the driver license or driving
553 privilege of that person for 45 consecutive days.

554 (10) SIGNAGE REQUIREMENTS FOR RETAILERS OF NICOTINE
555 PRODUCTS AND NICOTINE DISPENSING DEVICES.—

556 (a) Any retailer that sells nicotine products or nicotine
557 dispensing devices shall post a clear and conspicuous sign in
558 each place of business where such products are sold which
559 substantially states the following:

560 THE SALE OF NICOTINE PRODUCTS OR NICOTINE DISPENSING DEVICES TO
561 PERSONS UNDER THE AGE OF 21 ~~18~~ IS AGAINST FLORIDA LAW. PROOF OF
562 AGE IS REQUIRED FOR PURCHASE.

563 (11) SELF-SERVICE MERCHANDISING PROHIBITED.—

564 (c) Paragraphs (a) and (b) do not apply to an
565 establishment that prohibits persons under 21 ~~18~~ years of age on
566 the premises.

567 (12) RESTRICTIONS ON SALE OR DELIVERY OF NICOTINE PRODUCTS
568 OR NICOTINE DISPENSING DEVICES.—

569 (a) In order to prevent persons under 21 ~~18~~ years of age
570 from purchasing or receiving nicotine products or nicotine
571 dispensing devices, the sale or delivery of such products or
572 devices is prohibited, except:

573 1. When under the direct control, or line of sight where
574 effective control may be reasonably maintained, of the retailer
575 of nicotine products or nicotine dispensing devices or such

PCB HHS 19-03

2019

576 retailer's agent or employee; or

577 2. Sales from a vending machine are prohibited under
578 subparagraph 1. and are only permissible from a machine that is
579 equipped with an operational lockout device which is under the
580 control of the retailer of nicotine products or nicotine
581 dispensing devices or such retailer's agent or employee who
582 directly regulates the sale of items through the machine by
583 triggering the lockout device to allow the dispensing of one
584 nicotine product or nicotine dispensing device. The lockout
585 device must include a mechanism to prevent the machine from
586 functioning, if the power source for the lockout device fails or
587 if the lockout device is disabled, and a mechanism to ensure
588 that only one nicotine product or nicotine dispensing device is
589 dispensed at a time.

590 (b) Paragraph (a) does not apply to an establishment that
591 prohibits persons under 21 ~~18~~ years of age on the premises.

592 Section 14. This act shall take effect October 1, 2019.